

REMARKS

Claims 1-4 are now pending in the application. Claims 1-3 are rejected and Claim 4 is objected to but identified as containing allowable subject matter. The Examiner is respectfully requested to reconsider and withdraw the rejection(s) in view of the remarks contained herein.

REJECTION UNDER 35 U.S.C. § 103(a)

Claims 1-3 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Holcomb (U.S. Patent No. 3,970,345) in view of Jacobs (U.S. Patent No. 4,098,537).

It is respectfully submitted that the combination of references set forth by the Examiner fails to set forth a *prima facie* case of obviousness for the reasons set forth hereinbelow.

Claim 1 is generally directed to a bicycle seat assembly which places the rider in a backward-leaning sitting posture such that both the back cushion and the seat member share the load of the rider for allowing the user's feet to rest flat on the ground when the user is sitting on the bicycle. The recess of the seat member is also shaped to more evenly distribute the weight of the cyclist.

U.S. Patent No. 3,970,345 ("the '345 reference") discloses a bicycle seat with means for bearing various accessory-bearing attachments such as baby carriers and bulk containers. The seat attaches to a conventional cycle seat frame and the frame attaches to a conventional cycle seat post. The backrest of the seat is peripherally configured and perforated to receive straps and anchor bands of accessories. The front

seat portion has a coupler securing the seat to the cycle frame bar to set the attitude of the seat.

Contrary to the position of the Examiner, there are several structural and functional differences between the seat shown in the '345 patent and that recited in the rejected claims. In general, the '345 reference illustrates and describes a structure that results in a forward-slanting posture. First, Figs. 2 and 3 illustrate a forward leaning seat that includes a lock collar or coupler 50 in Fig. 2 and the combination of the frame bar 51 with a turnbuckle 61. These figures only show the seat in a forward leaning position. Second, the combination of the seat with the accessories (such as the platform 63 of Fig. 2) only allows the seat to be positioned in a forward leaning position when used with an accessory. (See also Fig. 6). Third, the '345 reference teaches that a forwardly leaning seat is preferred. As explained at Column 2, lines 61-65, the '345 reference teaches that "a slightly downwardly sloping seat base (11) with a nearly vertical backrest (12) is conducive to comfort and to efficient [sic] delivery of power to the pedals when the seat is on a bicycle" (numbers added).

In contrast, Claim 1 recites that the frame seat has an "upwardly inclining section that inclines upwardly and rearwardly." This structure, in combination with the formation of the seat member discussed below, acts to secure the posture of the user in a more backward-slanting position. As also recited in Claim 1, the front back supporting side of the back cushion forms "an obtuse angle with a horizontal plane." This feature of Claim 1 also causes the seating position to be rearwardly reclining.

Thus, the structure of the bicycle seat assembly as recited in Claim 1 results in a rearwardly leaning posture, as contrasted with the forwardly leaning posture of the

cyclist in the '345 reference. As a result, the '345 reference does not functionally or structurally teach the device recited in Claim 1, or the claims dependent therefrom. Moreover, the '345 reference actually teaches away from the limitations as recited in Claim 1 for placing the rider in a rearwardly seated posture.

To cure the deficiencies in the primary reference, the Examiner relies on U.S. Patent No. 4,098,537 ("the '537 reference") as teaching a bicycle saddle having a buttocks-receiving recess as recited in Claim 1.

The '537 reference discloses a transverse raised rib 50 extending across the center portion of the saddle to impart flexural stiffness thereto. Flexible pelvic zones 70, 72 are formed in a wide end portion of the bicycle saddle to provide increased flexibility at selected pressure points (i.e., at areas where the pelvic bones of a cyclist would be positioned).

It is respectfully submitted that the Examiner has incorrectly equated the flexible pelvic zones 70, 72 of the '537 reference to the buttocks-receiving recess of Claim 1. First, the '537 reference lacks a back cushion. Thus, only improper hindsight to Applicant's invention would suggest the combination of the flexible pelvic zones 70, 72 with the '345 reference to place the rider in a rearwardly leaning position in a manner similar to that recited in Claim 1. Second, the buttocks-receiving recess as recited in Claim 1 functions to uniformly distribute the rider's weight, as well as to work together with the other structure as described in Claim 1, to effect a backward-leaning posture of the cyclist. In contrast, the flexible pelvic zones 70, 72 are different. The flexible pelvic zones 70, 72 allow the bicycle saddle of the '537 reference to absorb excessive pressure applied thereto at areas where this is most likely to occur, rather than

redistribute the weight of the cyclist as in the present invention. There is simply no structure in the '537 reference that would urge a cyclist to lean rearwardly. If anything, the presence of the flexible pelvic zones 70, 72 suggest that the cyclist would be seated upwardly erect or leaning forward. Thus, regardless of whether the two references are considered separately, or in combination, neither are sufficient to teach each of the elements as recited in Claim 1.

Notwithstanding the foregoing, there is also no motivation to combine the references as suggested by the Examiner. Instead, it appears that the references would only be combined based on improper hindsight to the present application. The '345 reference is directed to a subset of bicycle seats having a back that can carry accessories. In direct contrast, the device shown in the '537 patent is a backless seat which encourages the rider to sit in an erect or forwardly leaning position. Thus, the rearwardly encouraged posture accomplished by the structural elements of the bicycle seat assembly as recited in Claim 1 (and the dependent claims) could not be accomplished by either reference alone. Very simply, the combination of references suggested by the Examiner, in view of the structural and functional differences between the references themselves, could only be suggested based on improper hindsight.

Finally, Applicant does not agree that the ranges recited in the dependent claims would be only optimum or workable ranges and reserves the right to challenge these conclusions should the rejections be maintained.

CONCLUSION

Accordingly, in view of the above remarks, reconsideration of the objections and rejections and allowance of each of Claims 1-4 in connection with the present application is earnestly solicited.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) hereby petition(s) for a two (2) month extension of time for filing a reply to the outstanding Office Action and submit the required \$450 extension fee herewith.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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